

M.S.B.A. Real Property Form No. 14 (Adopted April, 1998)

DISCLOSURE OF SEWAGE TREATMENT SYSTEM

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**DISCLOSURE OF SEWAGE TREATMENT SYSTEM.** © Copyright 1997, 1998, by Minnesota State Bar Association, Minneapolis, Minnesota. [Use with "Minnesota Standard Residential Purchase Agreement," M.S.B.A. Real Property Form No. 1 (Rev. Aug. 1997); "Minnesota Vacant Land Purchase Agreement - Single Dwelling," M.S.B.A. Real Property Form No. 30 (Rev. Aug. 1997); "Minnesota Vacant Land Purchase Agreement - Multiple Dwelling," M.S.B.A. Real Property Form No. 31 (Rev. Aug. 1997); or, "Minnesota Vacant Land Purchase Agreement - Residential Development Tract," M.S.B.A. Real Property Form No. 32 (Rev. Aug. 1997).]

*[Complete this next paragraph if this form is used as an addendum to a Purchase Agreement:]*

This addendum is a continuation of the Purchase Agreement dated \_\_\_\_\_  
by and between Fairview Red Wing Health Services, as Sellers, and  
City of Red Wing, as Buyers, for property  
described below in Section A.

**The Disclosure Law.** Pursuant to MINNESOTA STATUTES §115.55, Subdivision 6, (1997 Minn. Sess. Laws, Chapter 235) on or after June 3, 1997, before signing an agreement to sell or to transfer real property, the seller or transferor must disclose in writing to the buyer or transferee information on how sewage generated at the property is managed. Unless the buyer/transferee and seller/transferor agree to the contrary in writing before the closing of the sale, a seller/transferor who fails to disclose the existence or known status of an individual sewage treatment system at the time of sale, and who knew or had reason to know of the existence or known status of the system is liable to the buyer/transferee for costs relating to bringing the system into compliance with the individual sewage treatment system rules and for reasonable attorney fees for collection of costs from the seller/transferor. An action under this subdivision must be commenced within two years after the date on which the buyer/transferee closed the purchase or transfer of the real property where the system is located.

**IF YOU DO NOT UNDERSTAND THIS LAW, CONSULT YOUR LAWYER.**

**A. PROPERTY DESCRIPTION:**

Property Identification Number (Tax Parcel No.): R55.835. (2210) (2230) (2240) (2250) (2300) (2330) (2311)

Quarter: Section: Township: 113 Range: 015 County: Goodhue

Legal Description: Lot \_\_\_\_, Block \_\_\_\_, (plat name) \_\_\_\_\_  
(If metes-and-bounds description, attach legal description on separate sheet.) See Exhibit A

Street Address: 655 Tyler Road S.

**B. STATUTORY DISCLOSURE OF SEWAGE SYSTEM:**

*[Seller/Transferor must complete this section.]*

**M.P.C.A. PERMITTED FACILITY:** *[check only one from 1, 2, and 3:]*

- ☐ 1. Seller/Transferor states that sewage generated at the property goes to a facility permitted by the Minnesota Pollution Control Agency (for example, the sewer lines on the property are connected to a municipal sewer system or public sewage treatment system).
- ☒ 2. Seller/Transferor states that sewage generated at the property does not go to a facility permitted by the Minnesota Pollution Control Agency.
- ☐ 3. Seller/Transferor states that no sewage is generated at the property.

**IN-USE INDIVIDUAL ON-SITE SEWAGE TREATMENT SYSTEM:**

*[Check either 4 or 5:]*

- ☐ 4. Seller/Transferor has no knowledge whether there is an individual sewage treatment system in use on the property.
- ☒ 5. Seller/Transferor knows that there *[strike one:]* are / are no individual sewage treatment systems in use on the property. If Seller/Transferor discloses the existence of an individual sewage treatment system on the property, then Minnesota law requires that the location of the system be disclosed to Buyer/Transferee with a map. *[Complete the map below in Section C.]*

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### ABANDONED INDIVIDUAL ON-SITE SEWAGE TREATMENT SYSTEM:

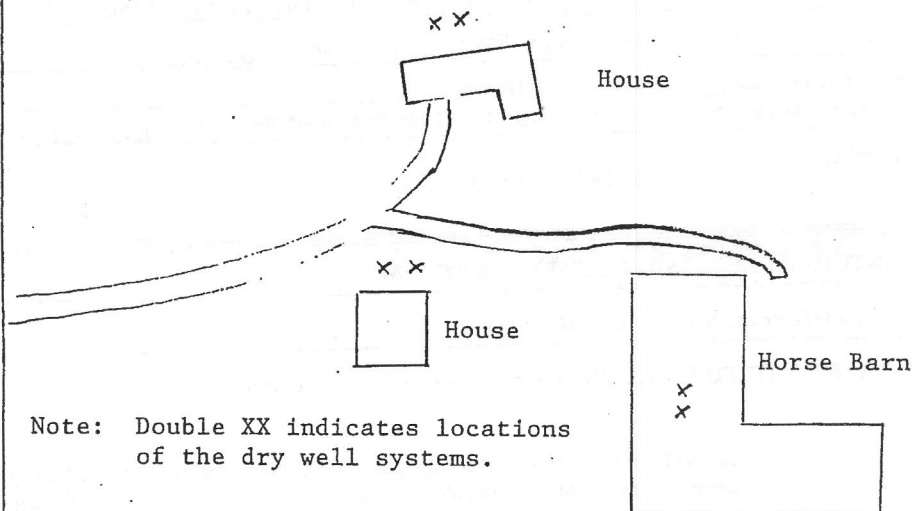
[Check either 6 or 7:]

- ☒ 6. Seller/Transferor has no knowledge whether there is an abandoned individual sewage treatment system on the property.
- ☐ 7. Seller/Transferor knows that there ~~[strike one:]~~ are / are no abandoned individual sewage treatment systems on the property. If Seller/Transferor discloses the existence of an abandoned individual sewage treatment system on the property, then Minnesota law requires that the location of the system be disclosed to Buyer/Transferee with a map. [Complete the map below in Section C.]

### C. INDIVIDUAL SEWAGE TREATMENT SYSTEMS (IN-USE OR ABANDONED) ON THE PROPERTY. Describe all in-use and abandoned systems on the property.

- 1 For each sewage treatment system in use, state the type of System:  
     \_\_\_ Septic Tank with: \_\_\_ standard drainfield \_\_\_ mound system drainfield  
     \_\_\_ Sealed System (holding tank or contained cesspool)  
     ☒ Other (describe) \_\_\_ seepage tank \_\_\_ cesspool ☒ dry well \_\_\_ leaching pit  
     Three (3) separate dry well systems

- 2 **SKETCH MAP**  
 Sketch the location of the house, garage, accessory buildings, well, septic tank, drainfield, mound, or other components of the sewer system. Also show the location of the components of any abandoned sewage treatment systems (tanks; pipes, drainfields, pits, etc.) Include estimated distances from all roads, streets and buildings. Use additional sheets of paper, if necessary.



- 3 **STATEMENT BY SELLER/TRANSFEROR:** To my knowledge, the property ~~[strike one]~~ is / is not in compliance with all applicable sewage treatment laws and rules.

Glenn Mattson GLENN MATTSO 12-5-98  
 Signature of Seller/Transferor For FAIRVIEW Real Estate HEATH SERVICES Print Name of Seller/Transferor Date

Signature of Seller/Transferor

Print Name of Seller/Transferor

Date

- 4 **ACKNOWLEDGMENT AND RECEIPT BY BUYER/TRANSFEE:** I have received this disclosure on [date] \_\_\_\_\_

Signature of Buyer/Transferee

Signature of Buyer/Transferee



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F. INFORMATION REGARDING GOVERNMENTAL NOTICES AND SELLER'S/TRANSFEROR'S KNOWLEDGE	
1	Have you received any notices regarding your system from any governmental unit? yes / <u>no</u> If "yes," explain: NO
2	Do you know of any defects in the sewer system? yes / <u>no</u> If "yes," describe: NO
3	Is there enough useable land area on the property to construct a new drainfield? <u>yes</u> / no / unknown YES
4	Do you have any other information about repairs or maintenance of the system that has not already been disclosed in this form? yes / <u>no</u> If "yes," describe: NO

G. SELLER'S/TRANSFEROR'S ADDRESS INFORMATION	
Seller's/Transferor's name and address before sale or transfer:	Fairview Red Wing Health Services 1407 West 4th Street Red Wing, MN 55066
Seller's/Transferor's address after sale or transfer:	Fairview Red Wing Health Services 1407 West 4th Street Red Wing, MN 55066

STATEMENT BY SELLER/TRANSFEROR: To my knowledge, the information on this Supplemental Disclosure is true, accurate, and complete.		
<u>Glen Mattson</u>	GLEN MATTSO FOR FAIRVIEW RED WING HEALTH SERVICES	12-5-98
Signature of Seller/Transferor	Print Name of Seller/Transferor	Date
Signature of Seller/Transferor	Print Name of Seller/Transferor	Date
ACKNOWLEDGMENT AND RECEIPT BY BUYER/TRANSFeree: I have received this Supplemental Disclosure on [date] _____.		
Signature of Buyer/Transferee	Signature of Buyer/Transferee	

## EXHIBIT D to WARRANTY DEED

1. Deed Restriction. By acceptance of this Warranty Deed, the General Developer covenants and agrees that Parcel 2 may not be used for Health Care Uses (as defined below).

"Health Care Uses," as used herein, means the provision or sale of medical or medically-related services or products including, but not limited to, acute care or hospital inpatient or outpatient or emergency services; general medical, specialty medical or physician care, clinics, services, products or programs; medical surgery, behavioral health or chemical dependency services, laboratory services, diagnostic services, infusion services, dialysis, imaging, urgent care, sanatoriums, skilled nursing care, board and care facilities, wellness programs, family planning services, medical education, medical research, assisted living, pharmacy, optical or ophthalmology, home healthcare, durable medical equipment, physical therapy, physical rehabilitation, sports medicine, medical offices, chiropractic services, dentistry, orthodontial services, so-called "alternative medicine" including, without limitation, acupuncture and acupressure; and administration or support services related to any of the above, but **excluding** the manufacture, assembly, distribution, warehousing or sale at wholesale of, or research and development with respect to, drugs, medicines or medical devices regulated by the United States Food and Drug Administration or wellness programs provided by employers exclusively for their employees.

Upon written request by the General Developer, Medical Developer may, at its option, waive any of the exclusive uses (on a one time or permanent basis) set forth above to permit such uses on Parcel 2, which waiver shall be in writing and in recordable form.

With respect to wellness programs, optical services, chiropractic services, dentistry, orthodontial services and so-called "alternative medicine," Medical Developer, upon written request of the General Developer, shall waive its exclusive (on a one time basis only) for any of such uses the General Developer desires to locate on Parcel 2, if Medical Developer is not then engaging in such uses on Parcel 1 and does not intend to initiate any such requested uses on Parcel 1 within the next two (2) years (or within two (2) years after the completion of the Minimum Improvements, if the General Developer makes a written request prior to completion of the Minimum Improvements), provided Medical Developer determines that such uses proposed by the General Developer will not be detrimental to Medical Developer's operations on Parcel 1, which determination shall be made reasonably. Medical Developer shall demonstrate its intention to initiate any requested use (except assisted living requested more than two (2) years after completion of the Minimum Improvements, which is addressed below) by delivering to the General Developer any of the following: (i) an excerpt from Medical Developer's strategic plan mentioning the initiation of such use; (ii) an excerpt from Medical Developer's internal memoranda mentioning the initiation of such use; (iii) architectural sketches, plans or renderings relating to such use; or (iv) any other documentation or evidence that reasonably demonstrates Medical Developer's intention to initiate such use within the applicable period.

With respect to assisted living only, Medical Developer, upon written request of the General Developer, shall waive its exclusive on a one time basis for a bona fide assisted



living development (which shall be evidenced by an executed letter of intent or purchase agreement between the General Developer and a recognized assisted living developer calling for the development of assisted living on Parcel 2) the General Developer desires to locate on Parcel 2, if Medical Developer is not then engaging in such use on Parcel 1 and does not intend to initiate such use on Parcel 1 within the next two (2) years (or within two (2) years after the completion of the Minimum Improvements, if the General Developer makes a written request prior to completion of the Minimum Improvements). If the General Developer requests a waiver for assisted living more than two (2) years after completion of the Minimum Improvements, Medical Developer shall demonstrate its intention to initiate any requested use by delivering to the General Developer either of the following: (i) evidence that Medical Developer has budgeted for such use; or (ii) evidence that Medical Developer has engaged an architect to work on an assisted living project for Parcel 1. If Medical Developer does not initiate a requested use within the applicable period provided above, Parcel 2 shall be released from the deed restriction regarding such use. For purposes of this Agreement, "assisted living" shall mean a facility licensed by the Minnesota Department of Health or successor agency where individualized home care aid services or home management services are provided to residents either by the management or by providers under contract with the management. "Assisted living" shall not include "congregate housing" or "housing for the elderly," as defined below. "Congregate housing" shall mean a residential facility for four or more elderly persons (age 60 or older) within which are provided living and sleeping facilities, meal preparation, laundry services and room cleaning. "Congregate housing" facilities may also provide other services such as transportation for routine social and medical appointments, and counseling. "Housing for the elderly" shall mean a building or group of buildings containing dwellings where the occupancy of the dwellings is restricted to persons 55 years of age or older or couples where one partner is 55 years of age or older. "Housing for the elderly" does not include developments that contain convalescent or nursing facilities.

If Medical Developer does not notify the General Developer that it has rejected a request for a waiver of a given use by the General Developer within 60 days after receipt of such written request, Medical Developer shall be deemed to have waived the exclusive one time only with respect to such requested use.

After the completion of the Minimum Improvements (as defined in that certain Development Agreement, dated December \_\_, 1998 (the "Development Agreement"), among Medical Developer, General Developer and the City of Red Wing), if more than 75,000 square feet of the Minimum Improvements cease to be used for any Health Care Uses for more than three consecutive years, unless due to Unavoidable Delays (as defined in the Development Agreement), Parcel 2 shall forever be released from this deed restriction regarding Health Care Uses.

2. Binding Effect; Enforcement. The terms and covenants contained in this Exhibit D shall run with the land and shall burden Parcel 2 and all present and future owners thereof and inure to the benefit of Parcel 1 and Medical Developer and all future owners of Parcel 1. Medical Developer and its successors and assigns shall have all rights available at law and/or in equity with regard to this Exhibit D, including, without limitation, rights to damages, specific performance and/or injunctive remedies.

3. Term. This Exhibit D shall be in effect for a term of 30 years and may thereafter be extended for successive periods of 10 years each by Medical Developer or its successors or assigns recording a notice of extension prior to the end of the then existing term.

4. No Merger. There shall be no merger of the rights and covenants created hereby by reason of the fact that the same person or entity now holds or hereafter acquires or holds, directly or indirectly, the fee estate in both Parcel 1 and Parcel 2 or any interest in Parcel 1 and Parcel 2.

5. Severability. The invalidity of any covenant, restriction, condition, limitation, provision, paragraph or clause of this Exhibit D, or any part of the same, or the application thereof to any person or circumstance, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Exhibit D, or the application of any such covenant, restriction, condition, limitation, provision, paragraph or clause to any other person or circumstance.

6. Non-waiver. The failure of a party to insist upon the strict performance of any of the terms, covenants or conditions hereof shall not be deemed a waiver of any rights or remedies which that party may have under this Exhibit D or at law or in equity and shall not be deemed a waiver of any subsequent breach or default in any of the such terms, covenants or conditions. No breach of this Exhibit D shall entitle a party to cancel, rescind or otherwise terminate this Exhibit D; provided, however such limitation shall not affect in any manner any other rights or remedies which such party may have by reason of any such breach.

7. Modification of Exhibit D. This Exhibit D may be modified, rescinded or amended in whole or in part only by an agreement in writing and in recordable form, executed by the then owners of Parcel 1 and the then owners of Parcel 2.

No delinquent taxes and transfer entered; Certificate  
of Real Estate Value ( ) filed ( ) not required  
Certificate of Real Estate Value No. \_\_\_\_\_  
\_\_\_\_\_, 19\_\_\_\_

County Auditor

by \_\_\_\_\_ Deputy

STATE DEED TAX DUE HEREON: \$ \_\_\_\_\_

Date: \_\_\_\_\_, 19\_\_\_\_

(reserved for recording data)

FOR VALUABLE CONSIDERATION, FAIRVIEW RED WING HEALTH SERVICES ("Medical Developer")  
\_\_\_\_\_, a nonprofit corporation under the laws of  
Minnesota, Grantor, hereby conveys and warrants to RED WING PORT AUTHORITY ("General  
Developer"), Grantee, a  
public body corporate and politic under the laws of Minnesota, real property in  
Goodhue County, Minnesota, described as follows:

on the attached Exhibit A, subject to the deed restrictions on that portion of the real property set forth on Exhibit B  
("Parcel 2"), for the benefit of that portion of the real property set forth on Exhibit C ("Parcel 1"), as created by the  
attached Exhibit D,

(If more space is needed, continue on back)

together with all hereditaments and appurtenances belonging thereto, subject to the following exceptions:  
See Exhibit E attached.

Affix Deed Tax Stamp Here

FAIRVIEW RED WING HEALTH SERVICES

By \_\_\_\_\_  
Its \_\_\_\_\_

By \_\_\_\_\_  
Its \_\_\_\_\_

STATE OF MINNESOTA

COUNTY OF \_\_\_\_\_ } ss.

The foregoing was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_,  
by \_\_\_\_\_ and \_\_\_\_\_,  
the \_\_\_\_\_ and \_\_\_\_\_  
of FAIRVIEW RED WING HEALTH SERVICES, a nonprofit corporation  
under the laws of Minnesota, on behalf of the nonprofit corporation.

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):  
Dorsey & Whitney LLP MEH  
Pillsbury Center South  
220 South Sixth Street  
Minneapolis, Minnesota 55402

SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT

Tax Statements for the real property described in this instrument should  
be sent to (include name and address of Grantee):

Red Wing Port Authority  
433 West Third Street  
Suite 200  
P. O. Box 244  
Red Wing, MN 55066  
Attn: Executive Director